

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JOHN MATTHEW COLEMAN, III,

Petitioner,

v.

CIVIL ACTION NO. 1:05-0110

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order entered on July 21, 2004, and filed in this case on February 9, 2005, this action was referred to United States Magistrate R. Clarke VanDervort for submission of proposed findings and a recommendation. Magistrate Judge VanDervort filed his proposed findings and recommendation on November 7, 2005. In that filing, the magistrate judge recommended that this court (1) construe the movant's letter (Doc. No. 1) as a motion under § 2255, (2) deny movant's motion (Doc. No. 1), (3) dismiss the matter with prejudice, and (4) remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a de

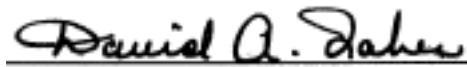
novo review by this court. Thomas v. Arn, 474 U.S. 140 (1985); Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby (1) **CONSTRUES** petitioner's letter (Doc. No. 1) as a § 2255 petition, (2) **DENIES** petitioner's motion (Doc. No. 1), (3) **DISMISSES** this matter with prejudice, and (4) **DIRECTS** the clerk to remove this matter from the court's docket.

The Clerk is directed to mail a copy of this order to all counsel of record, the plaintiff, pro se, and Magistrate Judge VanDervort.

IT IS SO ORDERED this 14th day of December, 2005.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge